

Before the  
FEDERAL COMMUNICATIONS COMMISSION  
Washington, DC 20554

RECEIVED

SEP 23 2003

FEDERAL COMMUNICATIONS COMMISSION  
OFFICE OF THE SECRETARY

In the Matter of

Amendment of Section 73.202(b)	)	
Table of Allotments	)	MM Docket No. 00-148
FM Broadcast Stations.	)	RM - 9939
(Quannah, Archer City, Converse, Flatonia,	)	RM - 10198
Georgetown, Ingram, Keller, Knox City,	)	
Lakeway, Lago Vista, Llano, McQueeney,	)	
Nolanville, San Antonio, Seymour, Waco and	)	
Wellington, Texas, and Ardmore, Durant,	)	
Elk City, Healdton, Lawton and Purcell,	)	
Oklahoma )	)	

To Marlene H Dortch, Office of the Secretary  
Attn Assistant Chief, Audio Division, Media Bureau

**RESPONSE TO COMMENTS OF CHARLES CRAWFORD**

Rawhide Radio, LLC, Capstar TX Limited Partnership and Clear Channel Broadcasting Licenses, Inc. ("Joint Petitioners"), by their respective counsel, hereby respond to the "Comments of Charles Crawford" filed by Charles Crawford ("Crawford") on August 19, 2003. Crawford's comments are unauthorized and, although accompanied by a separate motion for their acceptance, are unacceptable. See 47 C.F.R. § 1.415(d). Moreover, in substance, the comments are frivolous and repetitive. This Response is accompanied by a separate motion for its acceptance

1. Crawford's comments reargue one point which Crawford has already raised, for which Crawford provides absolutely no legal support, and which is patently contrary to law - so obviously wrong that Crawford himself does not even believe it. Crawford alleges that the Joint Petitioners' rule making proposal involving Station KVCQ, McQueeney, Texas, is short-spaced to Channel 256A at Camp Wood, Texas. However, there is no such allotment any more, and moreover, there was no such allotment at the time the Joint Petitioners' proposal was filed, on

No. of Copies rec'd 014  
List A B C D E

October 10, 2000 The Joint Petitioners' KVCQ rule making proposal could not have been short-spaced to an allotment that did not exist

2 On May 12, 2000, the Commission released a *Report and Order* in MM Docket 99-214, deleting Channel 256A at Camp Wood, Texas, and allotting Channel 251C3 in its place *Camp Wood and Rocksprings, Texas*, 15 FCC Rcd 10349 (2000). The FM Table of Allotments was amended to substitute Channel 251C3 for Channel 256A by paragraph 5 of the *Report and Order* *Id.* at 10351. The *Report and Order* was published in the Federal Register on June 5, 2000. 65 Fed Reg. 35588 (2000). The applicable time for review passed and no petition for reconsideration was filed by any party. Hence, the substitution of Channel 251C3 for Channel 256A had become final long before the Joint Petitioners' October 10, 2000 filing. Once the Table of Allotments is amended, a rule making proponent no longer is required to protect the deleted channel, even though the affected licensee may still be using it, and regardless of whether the licensee has filed an implementing application for the modified allotment. See *Hewitt, Texas*, 16 FCC Rcd 10849 (2001) (rule making proposal was properly filed despite being short spaced to existing facilities at Waco and Granbury, Texas, because those allotments had been modified by a previous rule making order), *see also Winslow, Camp Verde, Mayer and Sun City West, Arizona*, 16 FCC Rcd 9551 (2001), *review dismissed as moot*, 17 FCC Rcd 14688 (2002) (rule making proposal was required to protect modified allotment even though no application had been filed since being modified). Similarly, when the Commission grants a one-step upgrade, the existing allotment is no longer entitled to protection even though the licensee has not yet modified its facilities to reflect the new allotment. *Ardmore, Alabama et al.*, 17 FCC Rcd 16332, 16336 (2002) (rule making proposal was not required to protect licensed facilities of WYAI on Channel 288A once the grant of its one-step application for Channel 287C1 had become final).

3 Crawford makes much of the fact that the then-permittee of Station KAYG at Camp Wood filed an application for a minor modification on Channel 256A, even though it had been ordered to change to Channel 251C3. However, this application (filed on September 19, 2000) was not entitled to protection when the Joint Petitioners filed the KVCQ proposal on October 10, 2000. Once the FM Table of Allotments is amended, a licensee's right to continue operating on its current channel is no more than an implied grant of Special Temporary Authority. *1998 Biennial Regulatory Review -- Streamlining of Radio Technical Rules in Parts 73 and 74 of the Commission's Rules*, 13 FCC Rcd 14849, 14855 n.22 (1988). Under this implied authority, the licensee is free to remain on its existing channel, but must vacate its frequency if a conflicting demand is made on the spectrum.

4 For the foregoing reasons, it is obvious that Channel 256A at Camp Wood was not, and is not, entitled to protection. It is so obvious, in fact, that in another filing Crawford himself acknowledged that Channel 256A at Camp Wood was not entitled to protection. On May 7, 2001, Crawford filed a petition for rule making to add Channel 256A at Harper, Texas (copy attached). That petition was, on its face, short spaced to the licensed facilities of KAYG on Channel 256A at Camp Wood. In explaining this short spacing, Crawford wrote: "Note: Channel 256A was deleted at Camp Wood, Texas in MM Docket 99-214." Thus, Crawford recognized that the Camp Wood Channel 256A was not entitled to protection as of the date the Camp Wood *Report and Order* was final.

5 As discussed in the Joint Petitioners' accompanying opposition to Crawford's motion for acceptance, the Commission should not accept Crawford's late-filed comments. Crawford already raised the Camp Wood matter in a previous pleading ("Opposition of Charles Crawford to Petition for Partial Reconsideration and Request for Expedited Action" at 23 (filed June 30, 2003)). The Commission should reject Crawford's frivolous contentions for the reasons

given herein. The Commission should promptly issue a new notice of proposed rule making as the Joint Petitioners have requested, because the proposal offers compelling public interest benefits and its consideration is long overdue

Respectfully submitted,

RAWHIDE RADIO, LLC

By *Mark N. Lipp*  
Mark N Lipp  
J. Thomas Nolan  
Vinson & Elkins, LLP  
1455 Pennsylvania Avenue, NW  
Washington, D C. 20004  
(202) 639-6500

By *Lawrence N. Cohn*  
Lawrence N Cohn  
Cohn & Marks, LLP  
1920 N Street, NW  
Suite 300  
Washington, DC 20036-1622  
(202) 293-3860

Its Co-Counsel

CAPSTAR TX LIMITED PARTNERSHIP  
CLEAR CHANNEL BROADCASTING  
LICENSES, INC.

By *Gregory L. Masters*  
Gregory L. Masters  
Wiley Rein & Fielding LLP  
1776 K Street, NW  
Washington, DC 20006  
(202) 719-7370

Their Counsel

September 23, 2003

**CERTIFICATE OF SERVICE**

I, Lisa M. Balzer, a secretary in the law firm of Vinson & Elkins, do hereby certify that I have on this 23rd day of September, 2003 caused to be mailed by first class mail, postage prepaid, copies of the foregoing "Response to Comments of Charles Crawford" to the following:

\* Robert Hayne, Esq  
Federal Communications Commission  
Media Bureau  
Audio Division  
445 12th Street, SW  
Room 3-A262  
Washington, DC 20554

Dan J. Alpert, Esq  
Law Office of Dan J. Alpert  
2120 North 21st Road  
Suite 400  
Arlington, VA 22201  
(Counsel to M&M Broadcasters, Ltd.)

Gene A. Bechtel, Esq.  
Law Office of Gene Bechtel, P C  
1050 17th Street, NW  
Suite 600  
Washington, DC 20036  
(Counsel to Elgin FM Limited Partnership and Charles Crawford)

Charles Crawford  
4553 Bordeaux Avenue  
Dallas, Texas 75205

La Radio Cristiana Network, Inc  
P O Box 252  
McAllen, Texas 78505

\_\_\_\_\_  
Lisa M. Balzer

\* Via Hand Delivery